

SENATE BILL No. 111

DIGEST OF INTRODUCED BILL

Citations Affected: IC 20-26-9; IC 20-30-5-7.5.

Synopsis: Student nutrition and physical activity. Requires school boards to establish a coordinated school health advisory council to develop a local wellness policy that complies with certain federal requirements. Requires the department of education to provide information concerning health, nutrition, and physical activity. Establishes requirements applying to food and beverage items that are available for sale to students outside the federal school meal programs, including a requirement that a certain percentage of the food and beverage items qualify as better choices. Provides that the requirements do not apply after school hours or to fundraisers. Requires daily physical activity for elementary school students in public schools, with certain exceptions. Allows a school to continue a vending machine contract in existence before the passage of this bill. (The introduced version of this bill was prepared by the health finance commission.)

Effective: July 1, 2006.

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January 9, 2006, read first time and referred to Committee on Health and Provider Services.

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Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

SENATE BILL No. 111

A BILL FOR AN ACT to amend the Indiana Code concerning education.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 20-26-9-18 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2006]: **Sec. 18. (a) Before July 1, 2007, each school board shall**
4 **establish a coordinated school health advisory council (referred to**
5 **as the "advisory council" in this section). The advisory council**
6 **shall develop a local wellness policy that complies with the**
7 **requirements of federal Public Law 108-265 and IC 5-22-15-24(c).**
8 **The advisory council must hold at least one (1) hearing at which**
9 **public testimony about the local wellness policy being developed is**
10 **allowed.**
11 **(b) The school board shall appoint the members of the advisory**
12 **council, which must include the following:**
13 **(1) Parents.**
14 **(2) Food service directors and staff.**
15 **(3) Students.**
16 **(4) Nutritionists or certified dietitians.**
17 **(5) Health care professionals.**



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1 (6) School board members.

2 (7) A school administrator.

3 (8) Representatives of interested community organizations.

4 However, a person who represents a food manufacturer or
5 marketer or a person with a conflict of interest or a financial
6 interest in selling food in schools may not serve on the advisory
7 council.

8 (c) The school board shall adopt a school district policy on child
9 nutrition and physical activity that takes into consideration
10 recommendations made by the advisory council.

11 (d) The department shall, in consultation with the state
12 department of health, provide technical assistance to the advisory
13 councils, including providing information on health, nutrition, and
14 physical activity, through educational materials and professional
15 development opportunities. The department shall provide the
16 information given to an advisory council under this subsection to
17 a school or parent upon request.

18 SECTION 2. IC 20-26-9-19 IS ADDED TO THE INDIANA CODE
19 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
20 1, 2006]: Sec. 19. (a) This section does not apply to a food or
21 beverage item that is:

22 (1) part of a school lunch program or school breakfast
23 program;

24 (2) sold in an area that is not accessible to students;

25 (3) sold after normal school hours; or

26 (4) sold or distributed as part of a fundraiser conducted by
27 students, teachers, school groups, or parent groups, if the food
28 or beverage is not intended for student consumption during
29 the school day.

30 However, this section applies to a food or beverage item that is sold
31 in the a la carte line of a school cafeteria and is not part of the
32 federal school lunch program or federal school breakfast program.

33 (b) A vending machine at an elementary school that dispenses
34 food or beverage items may not be accessible to students.

35 (c) At least fifty percent (50%) of the food items available for
36 sale at a school or on school grounds must qualify as better choice
37 foods and at least fifty percent (50%) of the beverage items
38 available for sale at a school or on school grounds must qualify as
39 better choice beverages. Food and beverage items are subject to the
40 following for purposes of this subsection:

41 (1) The following do not qualify as better choice beverages:

42 (A) Soft drinks, punch, iced tea, and coffee.

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- 1 (B) Fruit or vegetable based drinks that contain less than
 2 fifty percent (50%) real fruit or vegetable juice or that
 3 contain additional caloric sweeteners.
 4 (C) Except for low fat and fat free chocolate milk, drinks
 5 that contain caffeine.
 6 (2) The following qualify as better choice beverages:
 7 (A) Fruit or vegetable based drinks that:
 8 (i) contain at least fifty percent (50%) real fruit or
 9 vegetable juice; and
 10 (ii) do not contain additional caloric sweeteners.
 11 (B) Water and seltzer water that do not contain additional
 12 caloric sweeteners.
 13 (C) Low fat and fat free milk, including chocolate milk, soy
 14 milk, rice milk, and other similar dairy and nondairy
 15 calcium fortified milks.
 16 (3) Food items that meet all the following standards are
 17 considered better choice foods:
 18 (A) Not more than thirty percent (30%) of their total
 19 calories are from fat.
 20 (B) Not more than ten percent (10%) of their total calories
 21 are from saturated and trans fat.
 22 (C) Not more than thirty-five percent (35%) of their
 23 weight is from sugars that do not occur naturally in fruits,
 24 vegetables, or dairy products.
 25 (d) A food item available for sale at a school or on school
 26 grounds may not exceed the following portion limits:
 27 (1) In the case of potato chips, crackers, popcorn, cereal, trail
 28 mixes, nuts, seeds, dried fruit, and jerky, either:
 29 (A) one and seventy-five hundredths (1.75) ounces; or
 30 (B) no portion limit applies if the food item contains not
 31 more than two hundred ten (210) calories.
 32 (2) In the case of cookies and cereal bars, two (2) ounces.
 33 (3) In the case of bakery items, including pastries, muffins,
 34 and donuts, three (3) ounces.
 35 (4) In the case of frozen desserts, including ice cream, three
 36 (3) fluid ounces.
 37 (5) In the case of nonfrozen yogurt, eight (8) ounces.
 38 (6) In the case of entree items and side dish items, including
 39 french fries and onion rings, the food item available for sale
 40 may not exceed the portion of the same entree item or side
 41 dish item that is served as part of the school lunch program or
 42 school breakfast program.

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(e) A beverage item available for sale at a school or on school grounds may not exceed twenty (20) ounces.

SECTION 3. IC 20-30-5-7.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7.5. (a) This section does not apply to a student who:

(1) is in half-day kindergarten; or

(2) has a medical condition that precludes participation in the daily physical activity provided under this section.

(b) Beginning in the 2006-2007 school year, the governing body of each school corporation shall provide daily physical activity for students in elementary school. The physical activity must be consistent with the curriculum and programs developed under IC 20-19-3-6 and may include the use of recess. On a day when there is inclement weather or unplanned circumstances have shortened the school day, the school corporation may provide physical activity alternatives or elect not to provide physical activity.

SECTION 4. [EFFECTIVE JULY 1, 2006] (a) IC 20-26-9-19, as added by this act, does not apply to a contract that:

(1) was executed before July 1, 2006;

(2) takes effect not later than July 1, 2006; and

(3) requires a governing body of a school corporation to allow the sale of:

(A) soft drinks and similar beverages; or

(B) food;

with no or low nutritional value, as defined by the United States Department of Agriculture, from vending machines or other dispensing units during school hours.

However, the governing body may not renew a contract described in this SECTION and, after the contract expires, must comply with IC 20-26-9-19, as added by this act.

(b) This SECTION expires July 1, 2011.

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